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10 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 1D 2004 63775

14 RYUZO J. HYATT, P.T.A.
1832 Lakeview Circle
15 Gainesville, GA 30501

A C C U S A T I O N

16 Physical Therapist Assistant License No. AT
6089

17
18 Respondent.

19 Complainant alleges:

20 **PARTIES**

- 21 1. Steven K. Hartzell (Complainant) brings this Accusation solely in his
22 official capacity as the Executive Officer of the Physical Therapy Board of California,
23 Department of Consumer Affairs.
- 24 2. On or about April 19, 2001, the Physical Therapy Board of California
25 issued Physical Therapist Assistant (PTA) License Number AT 6089 to Ryuzo Hyatt, P.T.A.
26 (Respondent). The Physical Therapist Assistant (PTA) License was in full force and effect at all
27 times relevant to the charges brought herein and will expire on August 31, 2006, unless renewed.

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4. Section 2609 of the Code states:

The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

- (a) Advertising in violation of Section 17500.
- (b) Fraud in the procurement of any license under this chapter.
- (c) Procuring or aiding or offering to procure or aid in criminal abortion.
- (d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

(f) Habitual intemperance.

(h) Gross negligence in his or her practice as a physical therapist.

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1 (j) The aiding or abetting of any person to violate this chapter or any
2 regulations duly adopted under this chapter.

3 (k) The aiding or abetting of any person to engage in the unlawful practice
4 of physical therapy.

5 (l) The commission of any fraudulent, dishonest, or corrupt act which is
6 substantially related to the qualifications, functions, or duties of a physical
7 therapist.

8 (m) Except for good cause, the knowing failure to protect patients by
9 failing to follow infection control guidelines of the board, thereby risking
10 transmission of blood-borne infectious diseases from licensee to patient, from
11 patient to patient, and from patient to licensee. In administering this subdivision,
12 the board shall consider referencing the standards, regulations, and guidelines of
13 the State Department of Health Services developed pursuant to Section 1250.11 of
14 the Health and Safety Code and the standards, regulations, and guidelines
15 pursuant to the California Occupational Safety and Health Act of 1973 (Part 1
16 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing
17 the transmission of HIV, Hepatitis B, and other blood-borne pathogens in health
18 care settings. As necessary, the board shall consult with the Medical Board of
19 California, the California Board of Podiatric Medicine, the Board of Dental
20 Examiners of California, the Board of Registered Nursing, and the Board of
21 Vocational Nursing and Psychiatric Technicians, to encourage appropriate
22 consistency in the implementation of this subdivision.

23 The board shall seek to ensure that licensees are informed of the responsibility of
24 licensees and others to follow infection control guidelines, and of the most recent scientifically
25 recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

26 6. Section 2661 of the Code states:

27 A plea or verdict of guilty or a conviction following a plea of nolo contendere
28 made to a charge of a felony or of any offense which substantially relates to the qualifications,

1 functions, or duties of a physical therapist is deemed to be a conviction within the meaning of
2 this article. The board may order the license suspended or revoked, or may decline to issue a
3 license, when the time for appeal has elapsed, or the judgement of conviction has been affirmed
4 on appeal or when an order granting probation is made suspending the imposition of sentence,
5 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person
6 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
7 of guilty, or dismissing the accusation, information, or indictment.

8 7. Section 2661.5 of the Code states:

9 (a) In any order issued in resolution of a disciplinary proceeding before
10 the board, the board may request the administrative law judge to direct any
11 licensee found guilty of unprofessional conduct to pay to the board a sum not to
12 exceed the actual and reasonable costs of the investigation and prosecution of the
13 case.

14 (b) The costs to be assessed shall be fixed by the administrative law judge
15 and shall not in any event be increased by the board. When the board does not
16 adopt a proposed decision and remands the case to an administrative law judge,
17 the administrative law judge shall not increase the amount of the assessed costs
18 specified in the proposed decision.

19 (c) When the payment directed in an order for payment of costs is not
20 made by the licensee, the board may enforce the order of payment by bringing an
21 action in any appropriate court. This right of enforcement shall be in addition to
22 any other rights the board may have as to any licensee directed to pay costs.

23 (d) In any judicial action for the recovery of costs, proof of the board's
24 decision shall be conclusive proof of the validity of the order of payment and the
25 terms for payment.

26 (e) (1) Except as provided in paragraph (2), the board shall not renew
27 or reinstate the license or approval of any person who has failed to
28 pay all of the costs ordered under this section.

1 (2) Notwithstanding paragraph (1), the board may, in its
2 discretion, conditionally renew or reinstate for a maximum of one
3 year the license or approval of any person who demonstrates
4 financial hardship and who enters into a formal agreement with the
5 board to reimburse the board within that one year period for those
6 unpaid costs.

7 (f) All costs recovered under this section shall be deposited in the Physical
8 Therapy Fund as a reimbursement in either the fiscal year in which the costs are
9 actually recovered or the previous fiscal year, as the board may direct.

10 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
11 request the administrative law judge to direct a licentiate found to have committed a violation or
12 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
13 and enforcement of the case.

14 9. Section 493 of the Code states:

15 “Notwithstanding any other provision of law, in a proceeding conducted by a board
16 within the department pursuant to law to deny an application for a license or to suspend or
17 revoke a license or otherwise take disciplinary action against a person who holds a license,
18 upon the ground that the applicant or the licensee has been convicted of a crime
19 substantially related to the qualifications, functions, and duties of the licensee in question,
20 the record of conviction of the crime shall be conclusive evidence of the fact that the
21 conviction occurred, but only of that fact, and the board may inquire into the
22 circumstances surrounding the commission of the crime in order to fix the degree of
23 discipline or to determine if the conviction is substantially related to the qualifications,
24 functions, and duties of the licensee in question.

25 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’ ‘authority,’ and
26 ‘registration.’”

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1 10. Section 498 of the Code states:

2 “A board may revoke, suspend, or otherwise restrict a license on the ground that
3 the licensee secured the license by fraud, deceit, or knowing misrepresentation of a
4 material fact or by knowingly omitting to state a material fact.”

5 CAUSE FOR DISCIPLINE
6 (Fraudulent, Dishonest or Corrupt Act)
7 [Bus. & Prof. Code Sections 2660 (b) and (l)]

8 11. Respondent is subject to disciplinary action under section 2660 (b) and (l)
9 in that he engaged in conduct constituting a fraudulent, dishonest or corrupt act substantially
10 related to the qualifications, functions or duties of a Physical Therapist Assistant, and fraud in the
11 procurement of his license.

12 12. On or about May 19, 2000, respondent filed an application for licensure as
13 a Physical Therapist Assistant with the Physical Therapy Board of California. In his application
14 respondent affirmed in writing that he had not been convicted of, nor pled nolo contendere to, any
15 misdemeanor or felony offense of any state, the United States, or a foreign country, by checking
16 a box indicating “No”, in response to question No. 16 of the application. Respondent signed the
17 application under penalty of perjury, affirming the truth and accuracy of the information he
18 provided therein. Thereafter, on or about November 17, 2001, respondent applied to the Board
19 for re-examination, and checked a box in answer to question No. 4 indicating that he had no
20 misdemeanor or felony convictions and had not pled nolo contendere to any such offenses.
21 Respondent signed the application for re-examination under penalty of perjury, attesting to the
22 accuracy of the information he provided.

23 13. In or about February of 2004, based on a Federal Bureau of Investigation
24 (FBI) fingerprint record check, the Board was advised that respondent had been convicted of
25 Driving Under the Influence of Alcohol in 1991 following a plea of nolo contendere in
26 Gainseville, Georgia, and that he had been convicted of the same offense again in 1997, also in
27 Gainseville Georgia, following a guilty plea on or about January 9, 1998. Both misdemeanor DUI
28 convictions resulted in fines and penalties, including community service and 24 hours jail, which

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respondent completed. Attached as "Exhibit A" and incorporated by reference herein are copies of the convictions records from the State of Georgia regarding respondent's DUI convictions.

14. Respondent is subject to discipline within the meaning of Code sections 2660 (b) and (l) in that his failure to truthfully answer the above referenced questions on his application(s) to the Board regarding his record of criminal convictions constitutes a fraudulent, dishonest or corrupt act substantially related to the qualifications, functions or duties of a Physical Therapist Assistant, and fraud in the procurement of his license.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Publicly reprimanding Physical Therapist Assistant License Number AT 6089, issued to Ryuzo J. Hyatt, PTA.

2. Ordering Ryuzo J. Hyatt, PTA, to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;

3. Taking such other and further action as deemed necessary and proper.

Date: October 1, 2004

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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